

West Coast Plating
97-07 U.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:

Mr. Ming Tang Lin
Ms. Shu Chuan Lin
Lippo Binding Company

) Order No. 97-07
)
) ADMINISTRATIVE ORDER
) PURSUANT TO SECTIONS 106 AND
) 104 OF THE COMPREHENSIVE
) ENVIRONMENTAL RESPONSE,
) COMPENSATION, AND
) LIABILITY ACT OF 1980
) as amended, 42 U.S.C.
) Sections 9606 and 9604

I. AUTHORITY

This Unilateral Administrative Order ("Order") is issued on this date pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499 ("CERCLA"). The President delegated this authority to the Administrator of the United States Environmental Protection Agency ("EPA" or "Agency") by Executive Order 12580, January 23, 1987, 52 Fed. Reg. 2923, and further delegated it to the Assistant Administrator for Solid Waste and Emergency Response and the Regional Administrators by EPA Delegation Nos. 14-8-A and 14-14-C. This authority has been redelegated to the Director, Hazardous Waste Management Division, EPA, Region 9 ("Director") by Region 9 Delegations 1290.41 and 1290.42

II. PARTIES BOUND

1. This Order shall apply to and be binding upon Ming Tang Lin, Shu Chuan Lin and Lippo Binding Company (each a "Respondent" and, collectively, "Respondents"), and their agents, successors and assigns. No change in ownership or operational status will alter a Respondent's obligations under this Order.

Respondents are jointly and severally liable for carrying out all activities required by this Order. Compliance or noncompliance by one or more Respondents with any provision of this Order shall not excuse or justify noncompliance by any other Respondents. Within two (2) days after the Effective Date of this Order or within two (2) days of retaining their services, Respondents shall provide a copy of this Order to all contractors, subcontractors, and consultants retained by any of the Respondents to perform work required by this Order. Notwithstanding the terms of any contract or agreement, each Respondent is responsible for compliance with this Order and for ensuring that its employees, contractors, and agents comply with this Order.

2. None of the Respondents may convey any title, easement, or other interest it may have in any property comprising the Site (as defined below) without a provision permitting the continuous implementation of the provisions of this Order. Any of the Respondents wishing to transfer any title, easement, or other interest it may have in any property comprising the Site shall provide a copy of this Order to any subsequent owner(s) or successor(s) before any ownership rights are transferred. Any of the such Respondents shall advise U.S. EPA six (6) months in advance of any anticipated transfer of interest.

III. CERTAIN DEFINITIONS

1. Unless otherwise expressly provided herein, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever the terms listed below are used in this Order, or in the Exhibits attached hereto

and incorporated hereunder, the following definitions shall apply:

"Unilateral Order" or "Order" shall mean this Unilateral Administrative Order and all exhibits attached hereto. In the event of conflict between this Unilateral Order and any exhibit, this Unilateral Order shall control.

"Contractor" shall mean Respondents' contractor(s) and subcontractors contracted to perform the installation/ construction, and operation and maintenance activities relating to any of the specific response actions at the Site that Respondents are required to perform.

"Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or federal holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday or federal holiday, the period shall run until the close of business of the next working day.

"EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

"National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300.

"Operation and Maintenance activities" shall include operation and maintenance of all structures built or installed to address the contamination at the Site.

"Paragraph" shall mean a portion of this Unilateral Order identified by an Arabic numeral.

"Parties" shall mean the United States Environmental Protection Agency Region IX and the Respondents.

"Action Memorandum" shall mean the Action Memorandum issued with respect to the Site by the United States Environmental Protection Agency on November 18, 1996.

"Section" shall mean a portion of this Unilateral Order identified by a Roman numeral and including one or more paragraphs.

"Site" shall mean the property located at 1734 North Tyler Avenue, South El Monte, California.

"State" shall mean the State of California, and all of its political subdivisions, including the California Department of Toxic Substances Control ("DTSC").

"United States" shall mean the United States of America.

IV. FINDINGS OF FACT

1. The Site, also known as the West Coast Plating Company facility, has been used for an electroplating business, most recently hard chrome and copper plating operations. Available information indicates that such operations ceased in October 1996.

2. On November 6, 1996, employees and representatives of EPA inspected the Site. The inspection and subsequent testing of materials on Site revealed the following:

- There are approximately 61 chemical vats or treatment vessels on Site. Many are in a severely deteriorated condition and in danger of immediate failure due to a lack adequate secondary containment.
- The contents of most vats and tanks tested have very high or

very low pH. Many meet the criteria of RCRA Hazardous Waste (corrosivity) as set forth in 40 CFR Section 261.22.

- Two of the vats tested positive for high concentrations of cyanide thus meeting the criteria of RCRA Hazardous Waste (reactivity) as set forth in 40 CFR Section 261.23.
- Extensive amounts of heavy metal sludge are on the floor of the plating shop.
- Contamination was observed on the plating shop floor and other areas.
- The roof of the plating shop was damaged and would allow rain to enter the structure in the area of the vats and the heavy metal floor sludge. This could result in overflows of the vats and sludge-contaminated areas, leading to chemical reactions due to the combination of incompatible chemicals. Such reactions could cause the release of cyanide gas.
- Approximately 200 drums of plating waste are stored on Site. Some are not labeled.
- Approximately 10 vats or other containers containing caustics, strong acids and plating sludges are stored in the outside yard area. The contents of these containers are readily accessible; employees working in the business located behind the Site plating shop and others present on Site may be exposed to the contents.

3. The Site is located on a busy city street. There is heavy auto and foot traffic on the west side of the Site. Numerous high-occupancy businesses, stores, and food and beverage facilities are located in the immediate area. A school and a single family development are located approximately one block east of the Site.

4. Ms. Shu Chuan Lin is the current owner of the Site.

5. Mr. Ming Tang Lin and Lippo Binding Company control and operate the Site.

V. CONCLUSIONS OF LAW

1. The Site is a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

2. Each Respondent is a "person" as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601 (21);.

3. Each Respondent owns and/or operates the Site, is a "liable party" within the meaning of Section 107(a), 42 U.S.C. §9607(a), and is subject to this Order under Section 106(a) of CERCLA, 42 U.S.C. §9606(a).

4. The plating wastes and other materials present at the Site are or contain "hazardous substances" as that term is defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

5. The past, present and future migration of hazardous wastes at and from the Site constitutes an imminent and substantial endangerment due to the actual or threatened release of hazardous substances, as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

VI. DETERMINATIONS

1. The Director of the Hazardous Waste Management Division, U.S. EPA Region IX, has determined that an actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare and the environment.

2. The actions required by this Order are necessary to

protect the public health, welfare and the environment.

3. If performed satisfactorily, the actions required by this Order are consistent with the National Contingency Plan, 40 C.F.R. Part 300 ("NCP").

VII. NOTICE TO THE STATE

1. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606(a), U.S. EPA has notified the State of California of the issuance of this Order by providing the Regional Board and California Department of Toxic Substances Control with a copy of this Order.

VIII. WORK TO BE PERFORMED

Based upon the foregoing Findings, Conclusions, and Determinations, and pursuant to Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a), it is hereby Ordered that the Respondents undertake the following actions under the direction of EPA's On-Scene Coordinator.

1. Respondents shall continue to provide twenty-four-hour security at the Site which meets with EPA approval.

2. Respondents shall restrict access to the Site and shall not allow any materials, equipment, or any other item to be removed from the Site without prior EPA approval.

3. Within three (3) calendar days after the effective date of this Order (as defined below), Respondents shall submit a Work Plan to U.S. EPA for approval. The Work Plan shall provide a concise description of the activities to be conducted to comply with the requirements of this Order, and shall include a proposed schedule for implementing and completing such activities. The Work Plan shall require Respondents to perform, at a minimum, the

following removal activities:

- a) Identify all chemical compounds in all vats and other containers. Sample and analyze all unknown chemicals and all chemicals in containers without labels or with unreadable labels.
- b) Segregate containers in groups according to compatibility of the chemical contents.
- c) Properly transport and dispose of, in accordance with all applicable or appropriate and relevant federal and state laws, all hazardous substances on Site.
- d) Provide EPA with copies of all documentation related to off-Site disposal of wastes including, but not limited to, manifests, waste profiles and analytical data and disposal costs.
- e) Notify the EPA On-Scene Coordinator at least forty-eight (48) hours prior to any on-Site work. Notify the EPA On-Scene coordinator at least 72 hours prior to disposal of wastes.
- f) Provide and implement a post-cleanup sampling and analysis plan.

4. The Work Plan shall be reviewed by U.S. EPA, which may approve, disapprove, require revisions, or modify the Work Plan. Respondents shall implement the Work Plan as finally approved by U.S. EPA. Once approved, the Work Plan shall be deemed to be incorporated into and made a fully enforceable part of this Order.

5. The Work Plan shall contain a site safety and health plan, a schedule of the work to be performed, and a post-cleanup sampling and analysis plan. The site safety and health

plan shall be prepared in accordance with EPA's Standard Operating Safety Guide, dated November, 1984, and updated July, 1988, and with the Occupational Safety and Health Administration ("OSHA") regulations applicable to Hazardous Waste Operations and Emergency Response, 29 CFR Part 120. The Work Plan and other submitted documents shall demonstrate that the Respondents can properly conduct the actions required by this Order.

6. Respondents shall retain a contractor qualified to undertake and complete the requirements of this Order, and shall notify U.S. EPA of the name of such contractor within five days of the effective date of this Order. Also within five days of the effective date of this Order, Respondents shall make appropriate arrangements with their contractor to assume all responsibility from EPA, financial and otherwise, for the emergency portable tankage which EPA provided on site on November 15, 1996.

7. Within ninety (90) calendar days after U.S. EPA approval of the Work Plan, Respondents shall complete all the elements of the Work Plan as approved or modified by U.S. EPA. Failure of Respondents to properly implement any aspect of the Work Plan shall be deemed to be a violation of the terms of this Order.

8. Respondents shall provide EPA with written weekly summary reports. These reports should contain a summary of the previous week's activities and planned events.

9. All sampling and analysis shall be consistent with the "Quality Assurance/Quality Control Guidance for Removal Activities:" "Sampling A/QC Plan and Data Validation Procedures," EPA OSWER Directive 9360.4-01, dated April, 1990.

10. Any hazardous substance, pollutant, or contaminant transferred off-Site as a result of this Order must be taken to a facility acceptable under the EPA Off-Site Rule (OSWER Directive 9834.11, November 13, 1987) in accordance with CERCLA Section 121(d)(3), 42 U.S.C. §9621(d)(3).

11. On or before the effective date of this Order, the Respondents shall designate a Project Coordinator. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during all work. The U.S. EPA has designated William E. Lewis, as its On-Scene Coordinator ("OSC"). The On-Scene Coordinator and the Project Coordinator shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, all communication between the Respondents and the U.S. EPA, and all documents, reports, approvals and other correspondence concerning the activities required by this Order shall be directed through the On-Scene Coordinator and the Project Coordinator.

12. The U.S. EPA and Respondents shall each have the right to change their respective designated On-Scene Coordinator or Project Coordinator. Respondents shall notify U.S. EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. Notification may initially be verbal, but shall promptly be reduced to writing.

13. The U.S. EPA On-Scene Coordinator shall have the authority vested in an On-Scene Coordinator by the NCP, 40 CFR Part 300, as amended, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by U.S. EPA or the Respondents at the facility.

14. No extensions to the above time frames shall be granted without sufficient cause. All extensions must be requested, in writing, and shall not be deemed accepted unless approved, in writing, by U.S. EPA.

15. All instructions by the U.S. EPA On-Scene Coordinator or his designated alternate shall be binding upon the Respondents as long as those instructions are not clearly inconsistent with the National Contingency Plan.

16. To the extent that the Site or other areas where work under this Order is to be performed is owned by, or in possession of, someone other than the Respondents, the Respondents shall obtain all necessary access agreements. In the event that after using their best efforts Respondents are unable to obtain such agreements, Respondents shall immediately notify U.S. EPA.

17. The Respondents shall provide access to the Site to U.S. EPA employees, contractors, agents, and consultants at reasonable times, and shall permit such persons to be present and move freely in the area in order to conduct inspections, including taking photographs and videotapes of the Site, to do cleanup/stabilization work, to take samples to monitor the work under this Order, and to conduct other activities which the U.S. EPA determines to be necessary.

18. Nothing contained herein shall be construed to prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Order, or from taking other legal or equitable action as it deems appropriate and necessary, or from requiring the Respondents in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. Section 9601, et seq.

or any other applicable law.

19. The provisions of this Order and the directions of the On-Scene Coordinator shall be binding on the employees, agents, successors, and assigns of the Respondents.

20. Except where this Order specifically provides otherwise, the effective date of this Order with respect to each Respondent shall be three calendar days following receipt of this Order by that Respondent, unless a conference is requested as provided below. If a conference is requested, the effective date of this Order shall be the third calendar day following the day of the conference, unless modified in writing by U.S. EPA.

21. On or before three calendar days after the effective date of this Order, each Respondents shall provide notice, verbally or in writing, to U.S. EPA stating its intention to comply with the terms of this Order. Verbal notification must be followed in writing within two calendar days. In the event the any of the Respondents fail to provide such notice, that Respondents shall be deemed not to have complied with the terms of this Order.

22. The Respondents shall retain copies of all records and files relating to hazardous substances found on the site for six years following completion of the activities required by this Order and shall make them available to the U.S. EPA prior to the termination of the removal activities under this Order.

23. The Respondents shall submit a final report summarizing the actions taken to comply with this Order. The report shall contain, at a minimum: identification of the facility, a description of the locations and types of hazardous substances encountered at the facility upon the initiation of

work performed under this Order, a chronology and description of the actions performed (including both the organization and implementation of response activities), a listing of the resources committed to perform the work under this Order (including financial, personnel, mechanical and technological resources), identification of all items that affected the actions performed under the Order and discussion of how all problems were resolved, a listing of quantities and types of materials removed from the facility, a discussion of removal and disposal options considered for any such materials, a listing of the ultimate destination of those materials, and a presentation of the analytical results of all sampling and analyses performed and accompanying appendices containing all relevant paperwork accrued during the action (e.g., manifests, invoices, bills, contracts, permits). The final report shall also include an affidavit from a person who supervised or directed the preparation of that report. The affidavit shall certify under penalty of law that based on personal knowledge and appropriate inquiries of all other persons involved in preparation of the report, the information submitted is true, accurate, and complete to the best of the affiant's knowledge and belief. The report shall be submitted within thirty days of completion of the work required by the U.S. EPA.

24. All notices, reports, and requests for extensions submitted under terms of this Order shall be sent by certified mail, return receipt requested, and addressed to the following:

one copy William E. Lewis
On Scene Coordinator
U.S. EPA (H-8-3)
75 Hawthorne Street
San Francisco, CA 94105

IX. OTHER APPLICABLE LAWS

1. Respondents shall undertake all actions required by this Order in accordance with the requirements of all applicable local, state, and federal laws and regulations unless an exemption from such requirements is specifically provided under CERCLA or unless Respondents obtain a variance or exemption from the appropriate governmental authority.

X. MODIFICATION OF WORK REQUIRED

1. The Director of the Hazardous Waste Management Division, U.S. EPA Region IX, may determine that in addition to tasks addressed herein, additional work may be required. Where consistent with Section 106(a) of CERCLA, the Director of the Hazardous Waste Management Division, U.S. EPA Region IX, may direct as an amendment to this Order that Respondents perform these response actions in addition to those required herein. Respondents shall implement the additional tasks which the Director of the Hazardous Waste Management Division, U.S. EPA Region IX, identifies. The additional work shall be completed according to the standards, specifications, and schedules set forth by the Director of the Hazardous Waste Management Division, U.S. EPA Region IX in any modifications to this Order.

XI. DELAY IN PERFORMANCE

1. Any delay in performance of any requirement of this Order that, in the U.S. EPA's judgment, is not properly justified by Respondents under the terms of this Section shall be considered a violation of this Order. Any delay in performance of any requirement of this Order shall not affect any other

Respondents' obligations to fully perform all of their respective requirements under the terms and conditions of this Order.

2. Respondents shall notify U.S. EPA of any delay or anticipated delay in performing any requirement of this Order. Such notification shall be made by telephone to U.S. EPA's OSC within twenty-four (24) hours after a Respondent first know or should have known that a delay might occur. Respondents shall adopt all reasonable measures to avoid or minimize any such delay. Within three (3) days after notifying U.S. EPA by telephone, Respondents shall provide written notification fully describing the nature of the delay, any justification for delay, any reason why Respondents should not be held strictly accountable for failing to comply with any relevant requirements of this Order, the measures planned and taken to minimize the delay, and a schedule for implementing the measures that will be taken to mitigate the effect of the delay. Increased costs or expenses associated with implementation of the activities called for in this Order are not justifications for any delay in performance.

3. If U.S. EPA determines that good cause exists for an extension of time, it may grant a request made by Respondents pursuant to paragraph 2 above, and specify in writing to Respondents the new schedule for completion of the activity and/or submission of the document for which the extension was requested.

XII. ENDANGERMENT AND EMERGENCY RESPONSE

1. In the event of any action or occurrence during the performance of the work which causes or threatens to cause a release of a hazardous substance or which may present an

immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action(s) to prevent, abate, or minimize the threat, and shall immediately notify U.S. EPA's primary OSC. If the OSC is not available, Respondents shall notify the U.S. EPA Emergency Response Unit, Region 9, phone number (415) 744-2000. Respondents shall take such action(s) in consultation with U.S. EPA's OSC and in accordance with all applicable provisions of this Order, including but not limited to the Health and Safety Plan.

2. Nothing in the preceding paragraph shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances on, at, the Site.

XIII. DISCLAIMER

1. The United States, by issuance of this Order, assumes no liability for any injuries or damages to persons or property resulting from acts or omissions by Respondents, or their employee(s), agent(s), successor(s), assign(s), contractor(s), or consultant(s) in carrying out any action or activity pursuant to this Order. Neither U.S. EPA nor the United States shall be held as a party to any contract entered into by Respondents, or their employees, agents, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order.

XIV. ENFORCEMENT AND RESERVATIONS

1. U.S. EPA reserves the right to bring an action against Respondents under Section 107 of CERCLA, 42 U.S.C. §9607, for recovery of any response costs incurred by the United States

related to this Order and not reimbursed by Respondents. This reservation shall include but not be limited to past costs, direct costs, indirect costs, the costs of oversight, enforcement actions, the costs of compiling the cost documentation to support oversight cost demand, as well as accrued interest as provided in Section 107(a) of CERCLA, 42 U.S.C. §9607.

2. Notwithstanding any other provision of this Order, at any time during the response action, U.S. EPA may perform its own studies, complete the response action (or any portion of it) and seek reimbursement from Respondents for its costs, or seek any other appropriate relief.

3. Nothing in this Order shall preclude U.S. EPA from taking any additional enforcement action, including modification of this Order or issuance of additional Orders, and/or additional remedial or removal actions as U.S. EPA may deem necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. §9607(a), et seq., or any other applicable law. Respondents shall be liable under CERCLA Section 107(a), 42 U.S.C. §9607(a), for the costs of any such additional actions.

4. Notwithstanding any provision of this Order, the United States hereby retains all of its information gathering, inspection and enforcement authorities and rights under CERCLA, the Resource Conservation and Recovery Act, or any other applicable statutes or regulations.

5. Notwithstanding compliance with the terms of this Order, including the completion of an U.S. EPA-approved response actions, Respondents are not released from liability, if any, for any enforcement actions beyond the terms of this Order taken by

U.S. EPA.

6. U.S. EPA reserves the right to take any enforcement action pursuant to CERCLA and/or any other legal authority, including the right to seek injunctive relief, monetary penalties, reimbursement of response costs, and punitive damages for any violation of law or this Order.

7. U.S. EPA expressly reserves all rights and defenses that it may have, including the U.S. EPA's right both to disapprove of work performed by Respondents and to request that Respondents perform tasks in addition to those detailed in this Order.

8. This Order does not release Respondents, individually or collectively, from any claim, cause of action or demand in law or equity, including, but not limited to, any claim, cause of action, or demand which lawfully may be asserted by representatives of the United States or the State of California.

9. No informal advice, guidance, suggestions, or comments by U.S. EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondents will be construed as relieving Respondents of their obligation to obtain such formal approval as may be required by this Order.

XV. REIMBURSEMENT OF ALL RESPONSE, ENFORCEMENT & OVERSIGHT COSTS

1. Respondents shall reimburse U.S. EPA, upon written demand, for all response costs incurred by the United States in overseeing Respondents' implementation of the requirements of this Order. U.S. EPA may submit to Respondents on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. Respondents shall, within thirty

(30) days of receipt of the bill, remit by cashiers or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency
Region 9, Attn: Superfund Accounting
P.O. Box 360863M
Pittsburgh, PA 15251

Respondents shall send a cover letter with any check and the letter shall identify the Site by name and make reference to this Order. Respondents shall send simultaneously to the U.S. EPA OSC notification of any amount paid, including a photocopy of the check.

2. Interest at the rate established under section 107(a) of CERCLA shall begin to accrue on the unpaid balance from the day of the original demand notwithstanding any dispute or objection to any portion of the costs.

XVI. OPPORTUNITY TO CONFER

1. With respect to the actions required above, the Respondents may within twenty-four (24) hours after receipt of this Order, request a conference with the U.S. EPA. Any such conference shall be held within three (3) calendar days from the date of request unless extended by mutual agreement of the parties. At any conference held pursuant to the request, the Respondents may appear in person, or be represented by an attorney or other representative. If the Respondents desire such a conference, the Respondents shall contact Roger Klein, Assistant Regional Counsel, at (415) 744-1311.

2. If such a conference is held, the Respondents may present any evidence, arguments or comment regarding this Order,

its applicability, any factual determinations upon which the actions Order is based, the appropriateness of any action which the Respondents are ordered to take, or any other relevant and material issue. Any such evidence, arguments or comments should be reduced to writing and submitted to U.S. EPA within ten (10) calendar days following the conference. If no conference is requested, any such evidence, arguments or comments must be submitted in writing within three (3) calendar days following the issuance of this Order. Any such writing should be directed to Roger Klein, Assistant Regional Counsel, at the address cited above.

3. The Respondents are hereby placed on notice that U.S. EPA will take any action which may be necessary in the opinion of U.S. EPA for the protection of public health and welfare and the environment, and Respondents may be liable under Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a), for the costs of those government actions.

XVII. SEVERABILITY

1. If any provision or authority of this Order or the application of this Order to any circumstance is held by a court to be invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby, and the remainder of this Order shall remain in force.

XVIII. PENALTIES FOR NONCOMPLIANCE

1. Pursuant to Section 106(b) of CERCLA, 42 U.S.C. Section 9606(b), willful violation or subsequent failure or refusal to comply with this Order, or any portion thereof, may subject the Respondents to a civil penalty of up to \$25,000 per

day for each day in which such violation occurs, or such failure to comply continues. Failure to comply with this Order, or any portion thereof, without sufficient cause may also subject the Respondents to liability for punitive damages in an amount three times the amount of any cost incurred by the government as a result of the failure of the Respondents to take proper action, pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. Section 9607(c)(3).

XIX. TERMINATION AND SATISFACTION

1. The provisions of this Order shall be deemed satisfied upon Respondents' receipt of written notice from U.S. EPA that Respondents have demonstrated, to the satisfaction of U.S. EPA, that all of the terms of this Order, including any additional tasks which U.S. EPA has determined to be necessary, have been completed.

THIS ORDER IS ISSUED on this 12th day of December, 1996.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

By: Keith Takata
Keith Takata, Director
Superfund Division

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